

**From:** Tod Harter  
**To:** Microsoft ATR  
**Date:** 1/23/02 1:04pm  
**Subject:** Microsoft Settlement

Dear Sirs:

I beg you to consider the following arguments in favor of more drastic action in regards to settling the current litigation against Microsoft. As a highly experienced software engineer, IT professional, and entrepreneur the proposed remedies are entirely inadequate.

Any engineering group, in this context Microsoft's various application development teams working on Microsoft products, gain a very substantial advantage from having a special working relationship with the developers of the underlying system software. While the proposed remedy attempts to mitigate this advantage it is only common sense that the best possible result one could hope from these remedies would be that 3rd party developers would achieve parity with Microsoft's internal developers. In fact this result is not particularly likely. The greatest source of these advantages is not in having access to privileged information. It is in fact the working relationship which exists between these two groups. Microsoft's developers would continue to have an intimate working knowledge of the processes, procedures, persons, and techniques characteristic of the operating system development teams. Many of these people have worked closely together for many years. Any MS product development team would be bound to continue to maintain these lines of communication and understandings with their colleagues in operating system development. The result is that Microsoft would continue to gain a very substantial advantage for its own developers. They would know who to talk to, what questions to ask, how to request new features, and where to go for problem resolution. How will anyone else compete against them?

Given that Microsoft has a virtually complete monopoly on desktop operating systems the result of the currently proposed remedies under these conditions amounts to allowing Microsoft to continue to leverage its monopoly into other markets. This process could have extremely dire results for the future of the entire IT industry, and more broadly for the entire economy as a whole.

Consider the following likely scenario:

Microsoft continues to dominate the desktop OS market (virtually a given). They furthermore continue to integrate their server and desktop OS products ever more tightly (a trend in the industry regardless of any monopoly situation). Given the proprietary nature of these integration technologies and protocols no other server OS vendor will be able to provide the same level of integration. This integration is a high value-add. Thus Microsoft will continue its pattern of growing dominance of the server OS market. Once a critical mass of the server market relies entirely on MS's software there will be NO incentive (indeed a huge disincentive) for MS to deploy

client/server technologies which are non-proprietary and available for use by non-microsoft products. Essentially MS will own both ends of the network and will be in a position to dictate how, when, where, and at what cost these technologies are deployed and used. It is highly likely that most business process and indeed most communications technology will eventually be based on these techniques. Is it really wise to construct a public policy which eventually leads to the complete domination by one private entity of all of society's communications and IT infrastructure? Personally I can hardly imagine a more foolhardy and unwise policy, either as a business person or as a citizen of this country.

Respectfully  
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